

Senate Bill No. 895

Passed the Senate August 27, 2014

Secretary of the Senate

Passed the Assembly August 26, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1569.33 and 1569.335 of, and to add Section 1569.331 to, the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

SB 895, Corbett. Residential care facilities for the elderly.

(1) Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. Violation of these provisions is a misdemeanor. Existing law requires that every licensed residential care facility for the elderly be subject to unannounced visits by the department and requires the department to visit these facilities as often as necessary to ensure the quality of care provided, but no less often than once every 5 years. Existing law requires the department to notify the residential care facility for the elderly in writing of all deficiencies and to set a reasonable length of time for compliance by the facility. Existing law requires inspection reports, consultation reports, lists of deficiencies, and plans of correction to be open to public inspection.

This bill would require residential care facilities for the elderly to remedy the deficiencies within 10 days of the notification, except as specified. By expanding the scope of a crime, this bill would impose a state-mandated local program. The bill would require the department to post on its Internet Web site information on how to obtain an inspection report, and would state the intent of the Legislature that the department make inspection reports available on its Internet Web site by January 1, 2020.

The bill would also require the department to design, or cause to be designed, a poster that contains information on the appropriate reporting agency in case of a complaint or emergency. The bill would require a residential care facility for the elderly to post this poster in the main entryway of its facility. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law states the intent of the Legislature that increased staffing and funding resources for the State Department of Social

Services Community Care Licensing Division (CCLD) appropriated in the Budget Act of 2014 be used to enhance the CCLD's structure and improve its operations. Existing law also states the intent of the Legislature to increase the frequency of facility inspections resulting in annual inspections for some or all facility types, including residential care facilities for the elderly. Existing law requires the State Department of Social Services, during the 2015–16 legislative budget subcommittee hearings, to update the Legislature on the status of the structural and quality enhancement improvements.

This bill would require the department to also report the projected costs of conducting annual inspections of residential care facilities for the elderly beginning January 1, 2018.

(3) Existing law requires the department to notify affected placement agencies and the Office of the State Long-Term Care Ombudsman whenever the department substantiates that a violation has occurred that poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license.

This bill would additionally require the department to provide the Office of the State Long-Term Care Ombudsman with a precautionary notification if the department begins to prepare to issue a temporary suspension or revocation of any license.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1569.33 of the Health and Safety Code is amended to read:

1569.33. (a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

- (1) When a license is on probation.
- (2) When the terms of agreement in a facility compliance plan require an annual evaluation.
- (3) When an accusation against a licensee is pending.
- (4) When a facility requires an annual visit as a condition of receiving federal financial participation.
- (5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.

(c) (1) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department.

(2) If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years.

(e) (1) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter.

(2) Unless otherwise specified in the plan of correction, the residential care facility for the elderly shall remedy the deficiencies within 10 days of the notification.

(f) (1) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(2) (A) The department shall post on its Internet Web site information on how to obtain an inspection report.

(B) It is the intent of the Legislature that the department shall make inspection reports available on its Internet Web site by January 1, 2020.

(g) As a part of the department's evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627.

(h) (1) The department shall design, or cause to be designed, a poster that contains information on the appropriate reporting agency in case of a complaint or emergency.

(2) Each residential care facility for the elderly shall post this poster in the main entryway of its facility.

SEC. 2. Section 1569.331 is added to the Health and Safety Code, to read:

1569.331. The Legislature hereby finds and declares that in order to protect the health and safety of elders in care at residential care facilities for the elderly, appropriate oversight and regulation of residential care facilities for the elderly requires regular, periodic inspections of these facilities in addition to investigations in response to complaints. It is the intent of the Legislature to increase the frequency of unannounced inspections pursuant to Section 1569.33. In addition to the information that the State Department of Social Services is required to report during the 2015–16 legislative budget subcommittee hearings pursuant to Section 85 of Chapter 29 of the Statutes of 2014, the department shall also at that time report the projected costs of conducting annual inspections of residential care facilities for the elderly beginning January 1, 2018.

SEC. 3. Section 1569.335 of the Health and Safety Code is amended to read:

1569.335. (a) The department shall provide the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with a precautionary notification if the department begins to prepare to issue a temporary suspension or revocation of any license, so that the office may properly prepare to provide advocacy services if and when necessary.

(b) The department shall notify affected public placement agencies and the Office of the State Long-Term Care Ombudsman, whenever the department substantiates that a violation has occurred that poses a serious threat to the health and safety of any resident

when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license.

(c) (1) If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted.

(2) If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation that indicates that the case is still under appeal.

(3) The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor